

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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**The Minutes**

**February 2, 2004**

- C039147      THE PEOPLE v. SCHMIDT      (Not for Publication)**  
The judgment of conviction is affirmed. The matter is remanded for resentencing in a manner consistent with this opinion. The trial court is also directed to correct the abstract of judgment as set forth above.  
DAVIS, J.  
We concur: Scotland, P.J.  
Hull, J.
- C041930      THE PEOPLE v. SORZANO      (Not for Publication)**  
The appeal is dismissed.  
BUTZ, J.  
We concur: Davis, Acting P.J.  
Raye, J.
- C042876      THE PEOPLE v. SMITH      (Certified for Partial Publication)**  
The enhancement for use of a firearm imposed on count III, a violation of Penal Code section 246, is stricken. The superior court is directed to prepare an amended abstract of judgment reflecting this modification and forward a copy thereof to the Department of Corrections. In all other respects, the judgment is affirmed.  
SIMS, J.  
We concur: Scotland, P.J.  
Nicholson, J.
- C043965      THE PEOPLE v. SILVA      (Not for Publication)**  
The judgment is affirmed.  
BUTZ, J.  
We concur: Sims, Acting P.J.  
Morrison, J.
- C044287      THE PEOPLE v. WINSTEAD      (Not for Publication)**  
The judgment is affirmed.  
BUTZ, J.  
We concur: Blease, Acting P.J.  
Hull, J.
- C044492      THE PEOPLE v. CRESS      (Not for Publication)**  
The judgment is affirmed.  
SIMS, Acting P.J.  
We concur: Raye, J.  
Morrison, J.

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We concur: Hull, J.  
Butz, J.

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**February 3, 2004, continued**

- C043563      THE PEOPLE v. CUTRER      (Not for Publication)**  
The judgment is affirmed. The trial court is directed to correct the abstract of judgment as follows:...  
... The trial court shall forward a certified copy of the corrected abstract of judgment to the Department of Corrections.  
DAVIS, Acting P.J.  
We concur: Hull, J.  
Butz, J.
- C043987      THE PEOPLE v. PHILLIPS      (Not for Publication)**  
The judgment is affirmed.  
DAVIS, Acting P.J.  
We concur: Hull, J.  
Butz, J.
- C044067      THE PEOPLE v. COMPTON      (Not for Publication)**  
The abstract of judgment is modified...As modified, the judgment is affirmed.  
HULL, J.  
We concur: Sims, Acting P.J.  
Morrison, J.
- C044109      THE PEOPLE v. THOLMER      (Not for Publication)**  
The appeal is dismissed.  
ROBIE, J.  
We concur: Blease, Acting P.J.  
Raye, J.
- C044673      THE PEOPLE v. PAYNE      (Not for Publication)**  
The trial court is directed to prepare a corrected abstract of judgment reflecting that the trial court ordered AIDS testing (§ 1202.1) and that the court imposed a \$600 fine pursuant to section 290.3 (including related fees and assessments). The court is further directed to forward a certified copy of the corrected abstract to the Department of Corrections. The judgment is affirmed.  
ROBIE, J.  
We concur: Blease, Acting P.J.  
Raye, J.

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**The Minutes**

**February 3, 2004, continued**

- C044741      THE PEOPLE v. GUTIERREZ      (Not for Publication)**  
The judgment is modified... As modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward a certified copy to the Department of Corrections.  
HULL, J.  
We concur:    Davis, Acting P.J.  
                 Butz, J.
- C043107      SCHWARTZ et al. v. DEBBER et al.      (Not for Publication)**  
The judgment (order) striking the complaint as to Paul Schwartz is affirmed. The judgment (order) striking the complaint as to Ann Schwartz is reversed. Ann Schwartz shall be awarded her costs on appeal.  
BLEASE, Acting P.J.  
We concur:    Morrison, J.  
                 Robie, J.
- C044028      In re I.G. et al.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND  
HUMAN SERVICES v. KATIE V.      (Not for Publication)**  
The order terminating appellant's parental rights is affirmed.  
HULL, J.  
We concur:    Sims, Acting P.J.  
                 Morrison, J.

**February 4, 2004**

- C041781      THE PEOPLE v. RAY      (Not for Publication)**  
The judgment is modified... As so modified, the judgment is affirmed. The trial court shall forward a certified copy of the corrected abstract to the Department of Corrections.  
SIMS, Acting P.J.  
We concur:    Davis, J.  
                 Hull, J.
- C043221      THE PEOPLE v. DURAN, JR.      (Not for Publication)**  
The judgment is modified... In all other aspects, the judgment is affirmed.  
DAVIS, Acting P.J.  
We concur:    Hull, J.  
                 Butz, J.

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**The Minutes**

**February 4, 2004, continued**

- C043255      THE PEOPLE v. CARPENTER      (Not for Publication)**  
The trial court is directed to prepare an amended abstract of judgment...  
In all other respects, the judgment is affirmed.  
SIMS, Acting P.J.  
We concur: Scotland, P.J.  
Butz, J.
- C043638      THE PEOPLE v. SMITH      (Not for Publication)**  
The judgment is reversed, and the matter is remanded to the trial court to  
allow defendant to withdraw his guilty plea. If defendant so moves, the trial court  
must grant his motion. If defendant does not move to withdraw his guilty plea  
within 60 days of the filing of the remittitur in the trial court, the trial court shall  
reinstate the judgment.  
DAVIS, Acting P.J.  
We concur: Hull, J.  
Butz, J.
- C043767      THE PEOPLE v. MONTES      (Not for Publication)**  
The judgment is affirmed.  
DAVIS, J.  
We concur: Scotland, P.J.  
Sims, J.
- C044789      THE PEOPLE v. EDWARDS      (Not for Publication)**  
The judgment is affirmed.  
DAVIS, Acting P.J.  
We concur: Hull, J.  
Butz, J.
- C044792      THE PEOPLE v. SMITH      (Not for Publication)**  
The judgment is affirmed. If the aforementioned fine has not been paid,  
the trial court is directed to prepare an amended abstract... and to forward a  
certified copy of the amended abstract to the Department of Corrections.  
DAVIS, Acting P.J.  
We concur: Hull, J.  
Butz, J.

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Nicholson, J.

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**The Minutes**

**February 5, 2004, continued**

- C042470      THE PEOPLE v. DAMPIER      (Not for Publication)**  
The judgment is affirmed.  
SCOTLAND, P.J.  
We concur:    Blease, J.  
                 Raye, J.
- C044124      THE PEOPLE v. McNABB, JR.      (Not for Publication)**  
The trial court is directed to prepare a corrected abstract of judgment to reflect a concurrent midterm of four years for burglary in case No. 2724 and to forward a certified copy to the Department of Corrections. The judgment is affirmed.  
HULL, J.  
We concur:    Davis, Acting P.J.  
                 Butz, J.
- C042302      SOUTH COUNTY CITIZENS FOR RESPONSIBLE GROWTH et al. v. CITY OF  
ELK GROVE and M&H PROPERTY MANAGEMENT, INC., et al.**  
**C042302      THE PEOPLE ex rel. DEPARTMENT OF CONSERVATION et al. v. CITY OF  
ELK GROVE and M&H REALTY PARTNERS III et al.**  
**(Not for Publication)**  
The judgment is reversed, and the matter is remanded to the trial court with directions to enter a judgment consistent with the holdings of this opinion. The parties shall bear their own costs on appeal. (Cal. Rules of Court, rule 27(a).)  
SCOTLAND, P.J.  
I concur:      Davis, J.  
I concur in the opinion except as to section II of the Discussion, Loss of Agricultural Land, to which I dissent...  
... I would thus reverse the trial court's ruling on this issue.  
Nicholson, J.
- C042800      CALIFORNIA MEDICAL ASSOCIATION, INC. v. ZINGALE, as Director, etc.,  
et al.      (Not for Publication)**  
The order awarding attorney fees is reversed. The Department shall recover its costs on appeal.  
MORRISON, J.  
We concur:    Hull, J.  
                 Robie, J.

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**The Minutes**

**February 5, 2004, continued**

- C041288      In re CHARLES G.; THE PEOPLE v. CHARLES G.**  
**(Certified for Publication)**  
Having decided the issues on the merits because they are likely to recur,  
we dismiss the appeal as moot.  
SCOTLAND, P.J.  
We concur:    Raye, J.  
                 Morrison, J.
- C041292      In re ROBERT M.; THE PEOPLE v. ROBERT M.**  
**(Not for Publication)**  
Having decided the issues on the merits because they are likely to recur,  
we dismiss the appeal as moot.  
SCOTLAND, P.J.  
We concur:    Raye, J.  
                 Morrison, J.
- C040754      THE PEOPLE v. BRENDLIN**  
BY THE COURT:  
Respondent's petition for rehearing is denied.  
SCOTLAND, P.J.

**February 6, 2004**

- C038291      THE PEOPLE v. OLIVO** **(Not for Publication)**  
The judgment is affirmed.  
RAYE, J.  
We concur:    Scotland, P.J.  
                 Davis, J.
- C040869      THOUSAND TRAILS, INC., et al. v. BROWN SANDS, INC., et al.**  
**(Not for Publication)**  
The judgment is affirmed. Sand shall recover costs on appeal.  
RAYE, J.  
We concur:    Blease, Acting P.J.  
                 Hull, J.